

**Before the  
Federal Communication Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Jurisdictional Separations Reform and</b>	)	
<b>Referral to the Federal-State Joint Board;</b>	)	<b>CC Docket No. 80-286</b>
<b>Options for Comprehensive Separations</b>	)	<b>DA 01-2973</b>
<b>Reform</b>		

**Comments Of:  
Fred Williamson and Associates, Inc. ("FW&A")  
On behalf of:**

**Chouteau Telephone Company, an Oklahoma ILEC  
H&B Telephone Communications, Inc., a Kansas ILEC  
Moundridge Telephone Company, Inc., a Kansas ILEC  
Pine Telephone Company, Inc., an Oklahoma ILEC  
Pioneer Telephone Association, Inc., a Kansas ILEC  
Totah Telephone Company, Inc., a Kansas and Oklahoma ILEC  
Twin Valley Telephone, Inc., a Kansas ILEC  
(Collectively, "ILECs")**

## **Background**

The ILECs represented by FW&A are small rural incumbent local exchange carriers providing service in Oklahoma and Kansas. The ILECs have an interest in the outcome of this proceeding because they are all rate of return carriers subject to the jurisdictional separations process. The jurisdictional separations based costs of these ILECs is used for a number of purposes which have a major bearing on the financial health of the company and its ability to provide high quality local exchange and other services at reasonable and affordable rate levels. First, the state universal service funds and to some extent, the federal universal service funds<sup>1</sup> that are received by these ILECs, are based on jurisdictionally separated costs. Second, the overall interstate and intrastate rates and earnings levels of these ILECs are based on jurisdictionally separated costs. Third, these ILECs are participants in the federal National Exchange Carrier Association (NECA) pool and receive revenue from this pool based on their interstate jurisdictional cost assignments. Consequently, any major change in jurisdictional separations, even on a transitional basis, could significantly affect the revenue streams of these companies and adversely affect their ability to provide existing and enhanced services at reasonable rates to customers in the high cost areas that they serve.

## **Summary Of Comments**

FW&A and the ILECs it represents appreciate the desire of the Joint Board and Commission to simplify and reduce regulation and as a result, attempt to define a “glide path” to a final separations process. The ILECs, however, believe that the Joint Board

and Commission must follow two paths - one for price cap LECs and a differing path for smaller rate of return ILECs. FW&A believes that it is critical that rate of return ILECs adopt an extended freeze (Option 1), until they also are no longer dependent on jurisdictionally separated costs in either jurisdiction to establish rate and earnings levels or universal service funding levels. Price cap LECs, however, should be given the opportunity to transition to Option 7.

### **Separations Transition For Rate of Return ILECs**

Rate of return ILECs are dependent on jurisdictionally separated cost results to establish interstate and intrastate earnings (revenue) levels, interstate and intrastate tariffed rate levels and interstate and often intrastate<sup>2</sup> universal service funding. The current separations freeze significantly simplified the jurisdictional separations process through the factor freeze and essentially established fixed allocators by class of plant and expense category in each ILEC study area. The factor freeze established a reasonable proportion of overall categorized costs that could be recovered by each rate of return ILEC in each jurisdiction.<sup>3</sup> For those ILECs which elected not to freeze the category relationships, jurisdictional assignments will continue to reflect changes in the mix of plant types (fiber versus copper, etc.), new switching technologies, new serving architectures and changes in the category relationship of voice grade versus broadband services. Changes in the expense relationship as a result of changes in plant investment, as well as changes in

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<sup>1</sup> Federal long-term support and local switching support were based on jurisdictionally separated costs.

<sup>2</sup> Some intrastate jurisdictions may use forward-looking costing or revenue changes from access reductions to establish intrastate universal service funding.

<sup>3</sup> The waiver process, also adopted with the freeze, allows an ILEC the opportunity to change its interstate/intrastate relationship if a significant occurrence (merger, acquisition, etc.) causes the existing frozen or fixed allocators to improperly reflect the companies jurisdictional operations.

accounting rules or tax laws will also continue to be reflected in jurisdictional assignments.

FW&A believes that any significant change in the current jurisdictional separations process, recently adopted by the Commission, even on a transitional basis, would create unwarranted additional work and disruption to revenue streams that are essential to providing high quality basic and enhanced services at reasonable and affordable rates in rural high cost areas.

The separations freeze already satisfies the broad goals suggested by the Commission and Joint Board in the “Glide Path” paper. Ongoing changes in categorization (which are reflective of changes in technology, architecture, etc.), along with the application of reasonably representative frozen or fixed allocators, insures that the existing jurisdictional separations process has a meaningful relation to how prices are set in both jurisdictions. The current process is simple to administer and audit and has resulted in lower overhead costs. Cost responsibility follows jurisdictional responsibility through the use of fixed allocators, as well as the continued ability to directly assign where appropriate. Additionally, through the categorization process, jurisdictional separations is able to address new technologies and will continue to evolve as competition continues to enter markets served by rate of return ILECs.

Changes to the jurisdictional separations process, as discussed in the “Glide Path” paper would very likely result in changes to the jurisdictional allocations (Options 2, 4 and 5) or

the jurisdictional responsibility for the companies' costs (Options 3 and 6A or 6B) or both. Either result will needlessly disrupt the revenue streams and operations of the company. Jurisdictional cost shifts will result in changes to federal access tariffs, changes to certain portions of federal support and, if the company is in the NECA pool, increase or decrease its pool settlement. In a similar vein, changes to intrastate tariffs (both local and access), earnings and intrastate universal service support may result from the changes to the jurisdictional costs or responsibility for those costs. All of these changes will necessitate federal and state regulatory proceedings which are time consuming and costly.<sup>4</sup> Changes such as those proposed in Options 2 to 6 are simply unwarranted at this time and would not result in a better regulatory or more accurate jurisdictional separations process. These changes would not substantively simplify the separations or regulatory process nor result in significant cost savings<sup>5</sup> and would not in the end, benefit consumers.

### **Separations Transition For Price Cap LECs**

Generally, the rates for price cap LECs, both federal and state are no longer dependent on jurisdictional cost levels. Additionally, price cap LECs often receive federal and state universal service funding based on forward looking, not separated costs. As a consequence, the revenue streams of these LECs are for the most part<sup>6</sup> no longer dependent on jurisdictionally separated costs. FW&A believes that Option 7, with certain

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<sup>4</sup> This may be a boon to the legal, accounting and consulting professions, but it is a disservice to the companies and their customers.

<sup>5</sup> The majority of these cost savings has already occurred as a result of the separations freeze.

<sup>6</sup> There may be a few remaining price cap LEC study areas in which the intrastate jurisdictional costs are used in conjunction with incentive regulation or in total to determine intrastate rate levels, state universal service funding and state earnings.

conditions, should be the considered by the Commission for price cap LECs. FW&A believes that a price cap LEC must meet the following criteria or minimum conditions in both jurisdictions in a study area before it is exempted from jurisdictional separations requirements:

- Rates must be set in each jurisdiction (federal and state) in a study area, on a basis other than jurisdictionally separated costs.
- Rate changes for a low-end adjustment, if based on jurisdictionally allocated book costs to determine if the LEC's earnings are below the low-end rate of return, would not be allowed.
- Rate changes based on exogenous jurisdictionally allocated book cost changes would not be allowed.
- Federal or State universal service funding would not be based on jurisdictionally allocated book costs of the LEC in the study area.
- Confiscation claims based on jurisdictionally allocated book costs would not be allowed.

If all of these conditions are met and/or agreed to by a price cap LEC, neither the LEC nor the respective federal or state regulators have a need for the LEC's jurisdictionally separated costs to set rates, determine earnings levels or to determine universal service funding levels. Instead, rate and earnings levels would be evaluated on an alternative regulatory basis (price caps, incentive regulation, etc.) and universal service funding levels would be established on a basis unrelated to jurisdictional book costs (forward looking costs, revenue support lost as a result of access rate reductions, etc.).

Consequently, price cap LECs meeting these conditions, by study area, could be exempted from jurisdictional separations requirements.<sup>7</sup>

If a price cap LEC has not met these criteria in its study area, then it should not be exempted from jurisdictional separations requirements for the very practical reason that those costs are still necessary (in either the federal or state jurisdictions or both) for setting rate levels and/or determining earnings and/or determining the LEC's level of funding from the universal service funds.

Certain of the Questions listed by the Joint Board seem to indicate a belief that elimination of the jurisdictional separations requirement also means that a LEC is deregulated or has no tariffing requirement (detariffed) or no longer has to meet consumer protection, service quality or emergency requirements. This belief is incorrect. A regulated price cap LEC, if it meets the criteria listed above simply no longer needs to perform separations studies. They no longer serve any purpose. The LEC still would be subject to all other applicable federal and state rules and guidelines governing its operations, including alternative regulatory rules governing rates, tariffs, earnings, and universal service funding, consumer protection, service quality, etc.

FW&A believes that this option for price cap LECs should be LEC initiated, with a filing and hearing at the State Commission to allow the LEC to demonstrate that the criteria

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<sup>7</sup> The Commission should not expect significant cost savings if a LEC is exempted from jurisdictional separations requirements. The majority of savings in personnel and other costs have already been achieved with the separations freeze. Simplification or elimination of portions of the ARMIS and other regulatory reporting requirements may create minor additional savings to the LECs.

listed above are met. The State Commission if it agrees, would certify to the Commission that the conditions have been met for both jurisdictions.

### **Conclusion**

For rate of return ILECs, adopting any option other than Option 1 results in change for the sake of change. Little benefit will be achieved for consumers and negative consequences will be experienced by companies in terms of implementation costs and the disruption caused in rates, tariffs, settlements and revenue streams, including federal and state universal service fund distributions. In its analysis of these Options, the Commission should add the goals of (1) stability and predictability for both ILECs and consumers and (2) the goal of minimizing additional regulatory costs. FW&A believes that Option 1 (a continuation of the freeze) is the only option that satisfies the goals articulated by the Commission and Joint Board and the additional, but critical, goals recommended by FW&A, and as such, the Commission should adopt Option 1.

The Commission may wish to consider allowing price cap LECs an exemption from separations requirements (Option 7) only if jurisdictionally separated costs are not utilized to set rates, determine earnings levels or to determine universal service funding levels by regulators in either jurisdiction in a study area in which the LEC operates. Even though it may have this exemption, a price cap LEC would still be subject to all other applicable federal and state rules and guidelines governing its operations, including

alternative regulatory rules governing rates, tariffs, earnings, and universal service funding, consumer protection, service quality, etc., until it is deregulated.

Respectfully submitted on behalf of the ILECs by,

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Fred G. Williamson, President of Fred Williamson  
and Associates, Inc.  
2921 East 91<sup>st</sup> Street, Suite 200, Tulsa, OK. 74137  
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Telephone: (918) 298-1618